

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: JUNE 2, 2009

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

Bill No. 2009-21 – Updates the hearing procedures of the Municipal Code relating to parking infractions. Proposed by: Bradford R. Jerbic, City Attorney

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

Under applicable City ordinances, parking citations may be contested by means of a hearing officer process. For those who don't choose that process, another potential means of contesting a citation has been to appear in response to a civil complaint filed by the City in Municipal Court. Because such a court process has not proved feasible, it has been proposed to allow those who wish to contest a citation in Municipal Court to request such a hearing by means of posting a \$500 bond, which would function as an appeal bond. This ordinance will implement that change.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

1. Bill No. 2009-21
2. Business Impact Statement

Motion made by DAVID W. STEINMAN to Hold in abeyance to 6/30/2009

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

RICKI Y. BARLOW, DAVID W. STEINMAN; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

CHIEF DEPUTY CITY ATTORNEY VAL STEED stated this bill was proposed to help update the City's parking infraction collection system.

RECOMMENDING COMMITTEE MEETING OF: JUNE 2, 2009

DEPUTY CITY ATTORNEY HEIDI ALMASE, City Attorney's Office, Civil Division, explained that this bill proposes changing the parking ordinance to require that any person seeking a judicial hearing post a \$500 bond. This will provide a mechanism for setting the hearing by Municipal Court. Following the hearing, any fine would be subtracted from the bond and the remaining money would be returned to the party who posted the bond.

DEPUTY CITY ATTORNEY ALMASE stated that refunding the money to a credit card takes 6-8 weeks and cash is refunded within two weeks. COUNCILMAN STEINMAN expressed concern with the delay in refunding the money. MARK VINCENT, Director of Finance and Business Services, stated the City could implement a policy requiring any refunds be processed within a week, noting that the City is not responsible for any delays after the refund is processed. DEPUTY CITY ATTORNEY ALMASE noted that the City processes refunds promptly, but the refund does not always appear quickly due to credit card billing cycles. CHIEF DEPUTY CITY ATTORNEY STEED suggested that if there is an issue with the return of monies within Municipal Court, that issue should be addressed within Municipal Court and not this ordinance.

DEPUTY CITY ATTORNEY ALMASE stated that parking fines range from \$25 to \$200 with the highest fines assessed for parking in front of fire hydrants and in handicapped parking spaces. Chronic offenders tend to have fines ranging from \$2500 to \$9500. Additionally, chronic offenders apply for judicial hearings that are not set for hearing or the offenders do not appear in court. If the offender chooses either a judicial hearing or arbitration through the hearing master and then does not pay the reduced or negotiated fine, that amount is sent to collections.

MR. VINCENT explained that the purpose of the Hearing Officer was to create a process for adjudicating parking tickets outside of the court system. However, citizens still had a right to a court hearing if they requested one, which has created a loophole where the parking tickets are not adjudicated and cannot be collected. If these hearings are not scheduled, the parking tickets are dismissed. The bond requirement is designed to discourage the use of the court process as a method of getting out of paying parking tickets fines.

DEPUTY CITY ATTORNEY ALMASE briefly explained the options available to someone who is issued a parking ticket. The person issued a ticket can decide to pay the fine, request an arbitration hearing with the Hearing Master or request a judicial hearing. Choosing the Hearing Officer means that the person issued the ticket is waiving the right to a judicial hearing.

If the judicial hearing is requested, Parking Enforcement processes the ticket as a civil case and refers it to the City Attorney's Office. A complaint is drafted and served to the person requesting the judicial hearing. The person requesting the hearing has 20 days to issue an answer. The party is usually offered a reduction of 50 percent of the face value of the ticket. Chronic offenders are usually not offered a reduction and the civil trial takes place.

Under this proposed ordinance, citizens seeking a judicial hearing for parking tickets would be required to obtain a bond from an outside party and submit it to the City. Parking Enforcement would then initiate the judicial hearing process. DEPUTY CITY ATTORNEY ALMASE pointed out that most \$20 parking tickets do not go through the judicial hearing process and

RECOMMENDING COMMITTEE MEETING OF: JUNE 2, 2009

noted that the judicial hearing process was typically requested by chronic offenders with several parking tickets.

MR. VINCENT stated that the City can put a hold on registration for vehicles with multiple parking tickets through the Nevada Department of Motor Vehicles. Additionally, the registration of vehicles could be suspended when the owners did not appear at the arbitration or judicial hearing or whose owners did not adhere to the negotiated settlement. A study indicated that owners of those vehicles simply register a different vehicle, have another person register the vehicle or cease registering the vehicle to avoid paying the fines.

DEPUTY CITY ATTORNEY ALMASE noted that the upfront costs of these judicial hearings are borne by the City. If the defendant wanted to pursue a counterclaim against the City, the defendant would be required to file a fee. COUNCILMAN STEINMAN stated that some effort should be made to recoup the costs from a person requesting a judicial hearing, noting the expense involved in these cases. DEPUTY CITY ATTORNEY ALMASE explained that the staff was making every effort to collect on outstanding parking fines and noted that the larger parking ticket cases included some court costs. She also pointed out that Parking Enforcement has collected over \$3 million in parking fines so far this year.

TEDDY RUSSELL, Las Vegas resident, expressed his support of the bill, but requested clarification of how the bond requirement would change the process. DEPUTY CITY ATTORNEY ALMASE reiterated that the bond would be required before any action would be taken by the City Attorney's Office. If the bond could not be obtained, the person issued the ticket could choose to go before the Hearing Master or pay the ticket.

JOSE MONROY, Henderson, Nevada, appeared in opposition of this ordinance, stating it was unfair to people who can not afford the bond. He suggested that the loophole benefits the City and recommended that the City go after chronic offenders under the current ordinance. He explained that he was issued a parking ticket while performing his duties as a City employee. He was reluctant to go before the Hearing Officer because he did not feel the Hearing Officer could be impartial. He noted that he had requested a judicial hearing in August 2008 and still had not received a court date.

DEPUTY CITY ATTORNEY ALMASE noted that several hundred cases were waiting to be processed when she joined the City about a year and a half ago. This ordinance would only impact future cases and not current cases. She explained that she makes every effort to negotiate and settle these cases and observed that posting a \$500 bond would require \$50 from the party seeking the hearing. The civil court system is not automated, which makes the process very slow.

MR. VINCENT noted that City employees, other than peace officers, are not exempt from complying with the Code and several City employees had a history of stacking tickets. He pointed out that each department can make a value judgment to determine whether the parking ticket was issued while the employee was performing work duties properly and that department has the option of paying the ticket as an operating expense.

RECOMMENDING COMMITTEE MEETING OF: JUNE 2, 2009

COUNCILMAN BARLOW stated he could not support this ordinance because the bond requirement could be a financial hardship to those seeking their day in court.

COUNCILMAN STEINMAN suggested that not requiring the bond for \$20 parking tickets and reserving it for chronic offenders. CHIEF DEPUTY CITY ATTORNEY STEED stated that graduating the bond requirement could be studied further and noted the bond is intended to show that a person is serious about seeking a judicial hearing. The purpose of the original parking ordinance was to remove parking tickets from the criminal arena while still allowing citizens their right to a hearing if they wished. This ordinance was an attempt to fix the glitches within the original ordinance.

SHERRY BONNETT, Supervisor of Parking and Hearings, explained that she reviews the final paperwork for all civil hearings. Most cases are from chronic offenders who know the civil hearing process does not work. She pointed out the Hearing Officer is an independent contractor who does not make extra money based on the cases that are heard. She explained this bond requirement was an effort to prevent people from tying up the court system with \$20 parking tickets and expressed her support for the proposed ordinance.

COUNCILMAN BARLOW wondered if it would be possible to require hearings by the Hearing Officer and not allow judicial hearing. CHIEF DEPUTY CITY ATTORNEY STEED stated that option could be studied, but noted that as a civil hearing, the citizen had the right to a judicial process. He noted there had been a reluctance to take away a citizen's right to a court hearing when the parking ordinance had been originally enacted.

COUNCILMAN BARLOW suggested that anyone challenging a parking ticket must go before the Hearing Officer and only allowing appeals through the judicial process. CHIEF DEPUTY CITY ATTORNEY STEED stated that option could be studied, but suggested that parking tickets, as civil cases with small penalties, may not need multiple levels of appeal.